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**UNITED STATES BANKRUPTCY COURT FOR  
EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

**In re:** )  
 )  
 )  
**CIRCUIT CITY STORES, INC.** ) **Chapter 11**  
 ) **CASE NO. 08-35653-KRH**  
 )  
 )  
**Debtor.** )  
 )

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**CREDITOR VADIM RYLOV'S RESPONSE TO DEBTORS' THIRTY-FIRST  
OMNIBUS OBJECTION TO CLAIMS [DISALLOWANCE OF CERTAIN INVALID  
CLAIMS, DOCKET 11809]**

COMES NOW, Creditor Vadim Rylov, through his undersigned counsel, pursuant to Fed. R. Bankr. P. 3007, Local Bankruptcy Rule 3007-1(D), and this Court's April 1, 2009 Order Establishing Omnibus Objection Procedures and Approving the Form and Manner of Notice of Omnibus Objections [Docket No. 2881], and responds to the Debtors' Thirty-First Objection to Claims [Disallowance of Certain Invalid Claims] [Docket No. 11809] and states as follows:

**Argument**

1. The Debtors filed voluntary petitions under Chapter 11 of the Bankruptcy Code on November 10, 2008 and continue to manage their affairs as debtors-in-possession.
2. On December 19, 2008, Creditor Joseph Skaf and other names plaintiffs Miguel Perez and Gustavo Garcia filed a lawsuit on behalf of themselves and all other entertainment managers, technology managers, sales managers, service and installation managers, and operations managers employed by Debtors seeking overtime compensation, compensation for missed meal and rest breaks, waiting time penalties and attorneys'

1 fees under California law. The class action-styled case, which is entitled *Skaf, Perez and*  
2 *Garcia v. Circuit City, Inc.*, is filed in the Los Angeles Superior Court, Case No. BC  
3 404195. Creditor Joseph Skaf seeks to represent all California-based entertainment  
4 managers, technology managers and sales managers who were employed by Debtors  
5 and who were not paid overtime compensation, or provided meal and rest breaks.

6 3. Creditor Vadim Rylov is a member of that putative class. On May 5, 2010, pursuant to  
7 this Court's Order regarding creditor claims, Creditor Vadim Rylov - through his  
8 counsel - filed a creditor claim with the bankruptcy administrator, Kurtzman Carson  
9 Consultants.

10 4. Debtors are in exclusive possession of the information necessary for Creditor Rylov to  
11 value this claim in any more detail. Specifically, Debtors hold the payroll, employment  
12 and time records, including the pay rates and number of weeks worked by Creditor  
13 Rylov.

14 5. Further, due to the automatic stay, Creditor's counsel is prohibited from conducting  
15 discovery on any issues (certification, merits or damages) against Debtors that would be  
16 necessary to further evaluate Creditor Rylov's claim with more particularity.

17 6. Debtors' counsel has informed Creditor's counsel that this will be a "liquidating"  
18 bankruptcy. In addition, Debtors' counsel informed Creditor Rylov that given Debtors'  
19 limited financial resources, matters that would otherwise be returned to trial court(s) are  
20 being kept in the Bankruptcy Court in order to curb the cost of litigating claims.

21 7. Debtors' Objection, which seeks to disallow the claims of Creditor Rylov is improper.  
22 Creditor Rylov is prepared to respond in detail to any factual or legal grounds that  
23 Debtor believes would tend to support disallowance of this claim, yet without such  
24 information he is "shadow boxing" - unable to understand, let alone respond to,  
25 contentions and arguments that have to date not been disclosed. With its Objection,  
26 Debtors essentially seek to disallow Creditor Rylov's claims for reasons that are  
27 completely unknown. The only basis for the objection is the unremarkable conclusion  
28 that Debtor has decided the claims have no merit. This kind of ipse dixit argument is as

1           unsurprising as it is unhelpful to the Court's ability to make a fair determination of the  
2           claim.

3       8.   These claims arise under California law. Similar to federal law, wages have always been  
4           afforded special status in California. The California Supreme Court has recently  
5           explained the strong public policy supporting claims of this nature:

6  
7           The public policy in favor of full and prompt payment of an  
8           employee's earned wages is fundamental and well established: 'Delay  
9           of payment or loss of wages results in deprivation of the necessities  
10          of life, suffering inability to meet just obligations to others, and, in  
11          many cases may make the wage-earner a charge upon the public.'  
12          (*Kerr's Catering Service v. Department of Industrial Relations*  
13          (1962) 57 Cal.2d 319, 326) California has long regarded the timely  
14          payment of employee wage claims as indispensable to the public  
15          welfare: "It has long been recognized that wages are not ordinary  
16          debts, that they may be preferred over other claims, and that, because  
17          of the economic position of the average worker and, in particular, his  
18          dependence on wages for the necessities of life for himself and his  
19          family, it is essential to the public welfare that he receive his pay  
20          when it is due. [Citations.] An employer who knows that wages are  
21          due, has ability to pay them, and still refuses to pay them, acts  
22          against good morals and fair dealing, and necessarily intentionally  
23          does an act which prejudices the rights of his employee." (*In re*  
24          *Trombley* (1948) 31 Cal.2d 801, 809-810; see *Gould v. Maryland*  
25          *Sound Industries, Inc.* (1995) 31 Cal.App.4th 1137 [statute  
26          criminalizing prompt payment violations shows "the policy involves  
27          a broad public interest, not merely the interest of the employee"].)

28       *Smith v. Superior Court* (2006) 39 Cal.4th 77, 82.

1 In another case, the California Supreme Court explained:

2 Considerations of sound public policy buttress our conclusion. Labor  
3 Code section 1194 confirms “a clear public policy ... that is  
4 specifically directed at the enforcement of California's minimum wage  
5 and overtime laws for the benefit of workers.” (citation omitted) As  
6 defendant's own authority reminds us, California's overtime laws are  
7 remedial and are to be construed so as to promote employee  
8 protection. (citation omitted.) And, as we have recognized, “this state  
9 has a public policy which encourages the use of the class action  
10 device.” (citation omitted.) ““By establishing a technique whereby the  
11 claims of many individuals can be resolved at the same time, the class  
12 suit both eliminates the possibility of repetitious litigation and  
13 provides small claimants with a method of obtaining redress for  
14 claims which would otherwise be too small to warrant individual  
15 litigation.”

16 *Sav-on Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319,  
17 340.

- 18 9. This creditor is prepared to respond to any specific factual and/or legal arguments that  
19 pertain to a fair determination of this claim. Otherwise, expunging this claim at this  
20 stage based on Debtors’ obtuse objection would be improper.  
21

22 Respectfully submitted,

23 Dated: May 3, 2012

24 **RIGHETTI GLUGOSKI, P.C.**

25 /s/ Michael Righetti

26 \_\_\_\_\_  
27 Michael Righetti  
28 Attorney for Creditor

**PROOF OF SERVICE**

STATE OF CALIFORNIA

I am employed in the County of San Francisco, State of California. I am over the age of 18 and not a party to the action. My business address is Righetti Glugoski, P.C., 456 Montgomery Street, Suite 1400, San Francisco, California, 94104.

On Thursday, May 03, 2012 I served the foregoing document described as:

**CREDITOR VADIM RYLOV'S RESPONSE TO DEBTORS' THIRTY-FIRST  
OMNIBUS OBJECTION TO CLAIMS [DISALLOWANCE OF CERTAIN INVALID  
CLAIMS, DOCKET 11809]**

on the interested parties by administering a true copy either by facsimile or in sealed envelopes addressed as follows:

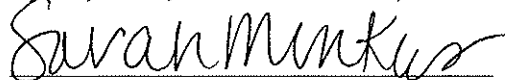
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**(X) VIA ECF ELECTRONIC MAIL**

By emailing the above documents referenced to the recipients listed herein.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and was executed on Thursday, May 03, 2012, at San Francisco, California.

  
Sarah Minkus